

including Judicial Arbitration, Mediation, Neutral Evaluation, and Private Arbitration

1. APPLICANT:

Applicant's Name:	John S. Blackman	
Firm Name:	Farbstein & Blackman, APC	
Address:	411 Borel Avenue	
	Suite 425	
City/State/Zip:	San Mateo, CA 94402-3518	
Telephone:	(650) 554-6200	Fax: (650) 554-6240
Email:	jsb@ farbstein.com	

2. PANEL REQUEST: *(All applicants are requested to serve as Judicial Arbitrators)*

Check each panel for which you are applying:

☒ **Judicial Arbitration** ☒ **Mediation** ☒ **Neutral Evaluation** ☒ **Private Arbitration**

3. EDUCATION:

Dates (from-to)	College/University/Law School	Degree Obtained
1971-1975	U.C. Santa Barbara	B.A.
1981-1984	Santa Clara University School of Law	J.D.

4. LEGAL EXPERIENCE: **State Bar No.** 114654 **Date Admitted:** 12/03/1984

A. Are you a member in good standing of the State Bar of California? xx Yes No

B. Are you a retired judicial officer? Yes ☐ No ☒

Please describe when/where you last served as a judicial officer:

C. Are you actively engaged in the practice of law at this time? ☒ Yes ☐ No

If not, are you retired from practice? _____ **Date retired:** _____

If your license is presently inactive, please explain:

D. Are you currently active in litigation practice? ☒ Yes ☐ No

Approximately what percentage of your practice involves litigation? 75 %

E. If your practice includes personal injury litigation, approximately what percentage of your practice involves the representation of: plaintiffs 20 % ; of defendants 80 %?

F. How many of the following have you personally handled as attorney of record in the past five years? Jury Trials ² ; Court Trials ⁰ ; Mediations ²⁵ ; Arbitrations ¹⁵ ;

G. Describe any legal publications or teaching you have done:

SEE ATTACHED

5. ADR TRAINING and EXPERIENCE

Course Title	Sponsoring Organization	Hours of Credit	Dates
Mediation Training	PCRC - San Mateo	8	1992
Mediation/Conflict Resolution	Steve Rosenberg	40	1996

- A. Number of years experience as: mediator 15 ; arbitrator 16 ; neutral evaluator 11 ;
- B. List all other court-connected ADR panels of which you are a member, specifying the processes for which you have qualified: San Mateo and Santa Clara counties
all processes
- C. State the name(s) of any organization(s) through which you have provided ADR services during the past five years, giving the dates and the services you provided: _____
N/A
- D. Describe the subject matter of five disputes in which you served as the ADR provider in the past 5 years, including the dates of service, the process and if you were sole or co-provider.
1. Construction defect; Jan 2005; mediation; sole ;
 2. Residential real estate sale; Oct 2004; binding arbitration; sole ;
 3. Fire damage/insurance dispute; 2003; neutral umpire; panel ;
 4. Employment discrimination; 2003; neutral evaluation; sole ;
 5. Legal malpractice; 2003; neutral evaluation/mediation; sole ;
- E. Is your ADR style best described as xx facilitative or xx evaluative/directive? (BOTH)
- F. Describe any ADR related publications or training you have done: _____
SEE ATTACHED
- G. Set forth your hourly fee or fee schedule, including any sliding scale or pro bono provisions. Attach a copy of your fee agreement. (Please note: Judicial arbitrators waive compensation for the first three (3) hours of hearing time in Alameda County and all ADR panelists are requested to accept at least three (3) Judicial arbitration cases per year).
- \$350/hr (\$400/hr for more than 3 parties) modest means and pro bono available
in appropriate circumstances. No administrative or cancellation fees.

6. AVAILABILITY/SPECIAL REQUIREMENTS

- A. List any languages, other than English, in which you are able to conduct ADR proceedings: _____
N/A
- B. Please state any special bi-cultural/multi-cultural capabilities or familiarity you possess: _____
N/A
- C. You are available to conduct ADR conferences: xx in your office; xx at counsel's office; _____ other (please describe: _____)
- D. You are available to conduct ADR proceedings: xx during regular office hours; xx evenings by appointment; xx weekends by prior arrangement;
- E. Please describe any requirements you have for ADR participants such as submission of copies of pleadings, briefs, declarations in lieu of testimony, etc.: _____
I deal with this on a case-by-case basis.

7. SUBJECT MATTER DESIGNATION

Please check each area below in which you are qualified by training/experience to provide ADR services, indicating the percentage it represents of your law practice, if any, and the ADR process(es) which you are prepared to offer in that area:

Case Type Accepted	% of Practice	Judicial Arb.	Mediation	Neutral Eval.	Private Arb.
Bankruptcy					
Business/Corp.		X	X		X
Civil Rights			X		X
Collections					
Construction	10	X	X	X	X
Contracts		X	X	X	X
Elder law/abuse		X	X	X	X
Employment	15	X	X	X	X
-Discrimination		X	X	X	X
-Harassment		X	X	X	X
-Termination		X	X	X	X
Environmental					
Fraud					
False Imprison.					
Family Law					
HO Ass'n		X	X	X	X
Insurance Cov.					
Intellect. Property		X	X	X	X
Landlord-Tenant		X	X	X	X
Legal Malpractice	40	X	X	X	X
Maritime					
Med Malpractice		X	X	X	X
Partnership			X		
P.I. – Auto		X	X	X	X
P.I. – Other	20	X	X	X	X
Premises Liability		X	X	X	X
Probate/Trust		X	X		X
Product Liab.		X	X	X	X
Real Property	10	X	X	X	X
Securities					
Tax					
Toxic Torts		X	X	X	X
Wrongful Death		X	X	X	X
Other:					
Fire/insurance					X
Workers Comp					X

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Dispute Resolution Services

Principal
Farbstein & Blackman, APC
Website: www.farbstein.com

MEDIATION AGREEMENT

IT IS HEREBY STIPULATED AND AGREED by and among the parties hereto and their respective attorneys of record that:

1. The parties in the case of _____, _____ County Superior Court Case No. _____, and their respective attorneys of record, agree to mediation in this matter, with the fees of the mediator to be shared equally (50% by the plaintiff's side, and 50% by the defense side). The clients and their respective attorneys of record shall each be jointly and severally liable for their respective share of the mediator's reasonable fee for this mediation. The mediator's fee rate is \$350 an hour for all services rendered and time reasonably spent conducting the mediation. Each side hereto shall deposit the sum of \$_____ (representing _____ hours' worth of the mediator's time, split 50-50 between plaintiff and defendant) with the mediator by no later than the close of business on the date set for the first mediation session, which in this case is scheduled for _____. Any unused portion of this deposit will be promptly refunded. All further sums due and owing for the mediator's services hereunder shall be paid in full within five (5) business days after submission of an invoice from the mediator. Checks should be made payable to Farbstein & Blackman, APC (Federal Tax I.D. No. 94-2456928).

2. All parties and signatories to this Agreement agree that this mediation, and all communications made during these mediation proceedings, are subject to and governed by the terms of California Evidence Code Section 703.5, and Sections 1115 through 1128. Section 1119 of the California Evidence Code states:

Except as otherwise provided in this chapter:

(a) No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation is admissible or subject to discovery, and disclosure of the evidence shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.

(b) No writing, as defined in Section 250,¹ that is prepared for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation, is admissible or subject to discovery, and disclosure of the writing shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.

(c) All communications, negotiations, or settlement discussions by and between participants in the course of a mediation or a mediation consultation shall remain confidential.

3. [For cases in litigation only:] The parties hereto agree that if a settlement is reached which the settling parties intend to be a final settlement of all or some issues between or among them, a ‘short-form’ handwritten or typed memorandum of that settlement which sets forth the gist of the materials terms of the settlement, and which is properly executed by the parties affected, will be binding and enforceable, and will be subject to disclosure and admissible in evidence for purposes of any proceeding to enforce such settlement, including but not limited to a motion pursuant to Code of Civil Procedure Section 664.6. The parties hereto agree that any settlement which is placed on the record before the court or put in writing and duly executed after or in the course of this mediation can be enforced under CCP § 664.6, and that a copy of this Mediation Agreement or relevant portions thereof may likewise be admissible in order to establish that agreement. The parties to this Agreement also agree that, pursuant to Evidence Code Section 1120, subd. (b), this Mediation Agreement may be admissible in evidence in any action or proceeding, including but not limited to an action or proceeding the mediator may bring in order to collect his fee, or in defending any action or proceeding brought against him in connection with this mediation.

4. The parties hereto expressly waive and exclude the application of the time limits set forth in Evidence Code § 1125, subdivision (a)(5) to these mediation proceedings. That section states:

(a) For purposes of confidentiality under this chapter, a mediation ends when any one of the following conditions is satisfied:

....

(5) For 10 calendar days, there is no communication between the mediator and any of the

¹Evidence Code § 250 states: “ ‘Writing’ means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.”

parties to the mediation relating to the dispute. The mediator and the parties may shorten or extend this time by agreement.

All parties and signatories to this Agreement agree that for purposes of confidentiality, absent any other indication that the mediation has concluded, these mediation proceedings shall be considered at an end if there is no communication concerning the subject matter of the mediation between the mediator and any of the parties or attorneys involved in this mediation, or their representatives, for 90 consecutive calendar days after the last mediation session.

5. The parties and signatories hereto understand and agree that the confidentiality protections normally afforded by engaging in mediation may become inapplicable in the event and to the extent the mediator or any participant herein becomes aware of the commission or likely commission of a crime of violence.

6. The parties and all signatories hereto understand and agree that the mediator is not practicing law, and owes no legal duty to them by virtue of his capacity as mediator of this case. The mediator is acting as a neutral, not an advocate, and the mediator is not and cannot “represent” anyone’s interests in this mediation. The parties understand and agree that even if the mediator gives his opinion, or makes statements concerning the law or legal matters, or assists in drafting a memorandum of settlement terms, that does not constitute “legal advice” or “legal services,” and they agree to rely solely upon their own judgment or advice from an attorney who is representing their interests, and not upon anything the mediator says or does.

7. The parties and all signatories hereto further agree that the mediator shall not be asked or compelled to testify in any action or proceeding or to produce any “writing” as defined in Evidence Code § 250, and they agree to abide by the terms of Evidence Code § 1127, which states:

If a person subpoenas or otherwise seeks to compel a mediator to testify or produce a writing, as defined in Section 250, and the court or other adjudicative body determines that the testimony or writing is inadmissible under this chapter, or protected from disclosure under this chapter, the court or adjudicative body making the determination shall award reasonable attorney's fees and costs to the mediator against the person seeking the testimony or writing.

8. This Agreement is intended to cover and will apply to any future mediation communications or mediation sessions held in connection with this dispute, without the

need for another writing signed by the parties affected.

I HAVE READ THE TERMS OF THIS MEDIATION AGREEMENT FOR
THE CASE OF _____, AND I
UNDERSTAND AND AGREE TO ITS TERMS.

DATED: _____

*Please PRINT your name and capacity (e.g., "Plaintiff," or "Attorney for...")
below your signature:*

_____	_____
_____	_____
_____	_____
_____	_____

JOHN S. BLACKMAN
Mediator